



H.C.P.(MD).No.1433 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD).No.1433 of 2023

V.James

.. Petitioner/Brother of the Detenu

Vs.

1.State of Tamil Nadu

Represented by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Dindigul District.

3.The Superintendent,
Central Prison,
Madurai.

4.The Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to call for records in Detention Order No.33/2023 dated 03.06.2023 and issue a writ, order or direction more particularly in the nature of writ of Habeas Corpus or any other order or direction, directing the respondents herein to produce the detenu Joseph Jeyaseelan, son of Vethamuthu, aged about 46/2023 years who has been termed as “Sexual Offender” and now confined in Central Prison, Madurai and set aside the same and set the detenu at liberty.

For Petitioner : Mr.S.Sarvagan Prabhu
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The brother of the petitioner is detained under the Tamil Nadu Act 14 of 1982 by the impugned order dated 03.06.2023 on the subjective satisfaction of the detaining authority that the presence of the accused is likely to cause disturbance to the public peace. The detention order is under challenge in the present Habeas Corpus Petition.



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2. The impugned detention order is challenged on the ground that the detaining authority has not applied his mind and the reasoning that the presence of the detenu will cause disturbance to the public order is baseless.

3. The learned Additional Public Prosecutor appearing for the respondents, relying upon the counter filed by the respondents, submitted that though it is a single offence, being an offence under the POCSO Act and the victim, aged about 10 years, is the own daughter of the detenu, the probability of disturbance of public order is imminent.

4. After hearing the learned counsels on either side, this Court is of the view that a single offence occurred inside the house may not be a threat to public peace and therefore, the detention order is liable to be quashed on the ground of non-application of mind.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.33/2023 dated 03.06.2023 passed by the second respondent is set aside. The detenu, viz., Joseph Jeyaseelan,



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S/o.Vethamuthu, aged about 46 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (C.K.,J.)
29.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Dindigul District.
- 3.The Superintendent,
Central Prison, Madurai.
- 4.The Inspector of Police,
All Women Police Station,
Nilakottai, Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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